

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA EX REL. LIESA KYER,

Plaintiff,

v.

CIVIL ACTION NO. 2:20-cv-00732

THOMAS HEALTH SYSTEM, INC., et al.,

Defendants.

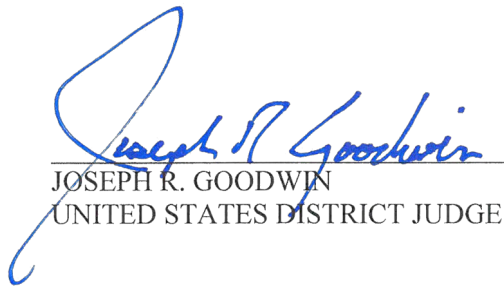
ORDER

Pending before the court is the United States’s *Petition for Leave to File Statement of Interest*, [ECF No. 65]. On July 3, 2023, the United States informed the court that it made “no decision” on intervention but reserved the “right to intervene” at a later time. [ECF No. 22]. More than a year later, the United States has not yet intervened but now seeks to file a statement of interest. [ECF No. 65]. Under 28 U.S.C. § 517, “any officer of the Department of Justice” may “attend to the interests of the United States in a suit pending in a court of the United States.” Even without intervention, the United States is not without power. At the Government’s request it may be served with copies of all pleadings and deposition transcripts. 31 U.S.C. § 3730(c)(3). The court may also “permit the Government to intervene at a later date upon a showing of good cause.” *Id.* The Supreme Court has recently affirmed the Government’s power to move for dismissal. *United States ex rel. Polansky v. Executive Health Resources, Inc.*, 599 U.S. 419, 438 (2023) (“The Government may move to dismiss an FCA action . . . whenever it has intervened—whether during the seal period or later on.”).

Considering the United States's interests and powers in a *qui tam* action, the motion is **GRANTED**. In the court's interest, however, the United States is directed to file its Statement of Interest no later than **October 18, 2024**. On that day, the parties will have responded to each other's *Loper Bright* briefs, and the court will be able to consider all parties' interests—including that of the United States—at the same time. The parties' initial *Loper Bright* briefs have already been filed, and the United States can be apprised of their arguments. *See* [ECF Nos. 66, 67].

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record, including representatives of the United States, and any unrepresented party.

ENTER: October 8, 2024



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE